

### **REMARKS**

This responds to the Office Action mailed on April 10, 2009.

Claims 1, 8, 15, 20, and 25 are amended; claims 6, 11, and 28 were previously canceled, without prejudice to or disclaimer by the Applicant; as a result, claims 1-5, 7-10, and 12-27 are now pending in this application.

Example support for the amendments may be found throughout the original filed specification. By way of example only the learned Examiner's attention is directed to the original filed specification, paragraphs 16 and 24.

#### *§ 103 Rejection of the Claims*

Claims 1-5, 8-10 and 12-27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Katsumi (U.S. 6,369,846) in view of Nefian (U.S. 2003/0212557) and Lubiarz et al. (U.S. 7,003,452) and Veltman (U.S. 5,481,543). It is of course fundamental that in order to sustain an obviousness rejection that each and every element in the rejected claims must be taught or suggested in the proposed combination of references.

Here, the proposed combination of references fails to teach or suggest any notion of excluding noise from environments associated with the speaker or speakers. By excluding noise from the very environments of the speakers more accurate audio is capable of being captured and mapped to speakers speaking. Applicant has now amended the independent claims to highlight this distinction, which is not shown or suggested in the proposed combination of references.

Thus, Applicant respectfully requests that the learned Examiner remove the rejections of record and allow the pending claims.

Claims 7 and 12 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over Katsumi in view of Nefian, Lubiarz et al. and Veltman, and further in view of Van Schyndel (U.S. 5,940,118). These claims are dependent on amended independent claims; as such, these claims are allowable in view of their dependency on the independent claims from which they depend and in view of the amendments and remarks presented above with respect to those

independent claims. Applicant respectfully requests an indication of the same from the learned Examiner.

### **RESERVATION OF RIGHTS**

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record is relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

**CONCLUSION**


Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (513) 942-0224 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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Date 07-10-09

By /  /

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